

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

MAYDA NAZARIO-LUGO,

Plaintiff,

v.

CARIBEVISIÓN HOLDINGS, INC.,

Defendant.

Civil No. 09-2262 (JAF)

ORDER

Before the court is Plaintiff's motion submitting post-judgment attorneys' fees and costs. (Docket No. 135.) This motion complies with our order of February 19, 2013. (Docket No. 133.) In that order, we granted Plaintiff's motion for post-judgment attorneys' fees and costs, and instructed her to submit "records of time spent and expenses incurred." (Id. at 8.) In the same order, we joined America CVPR, Inc. and America-CV Station Group, Inc. as defendants, pursuant to Fed. R. Civ. P. 25(c). (Id.) Plaintiff then filed her motion submitting fees and costs on March 18, 2013. (Docket No. 135.) Plaintiff also submitted supporting documents, including an expense log and an affidavit by her lead counsel, Judith Berkan ("Ms. Berkan"). (Docket No. 135-1.) Defendants have not filed any opposition that contests the reasonableness or amount of the fees and costs submitted by Plaintiff.¹

We begin our analysis by examining the reasonableness of the requested fees. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). "Fees are presumptively reasonable where

¹ America CVPR, Inc. and America-CV Station Group, Inc., moved for reconsideration of the portion of our order that joined them as defendants. (Docket No. 134.) Their motion did not make any argument regarding the amount of fees and costs submitted by Plaintiff. (Id.) We denied the reconsideration motion in a separate opinion and order. (Docket No. 137.)

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1 the requesting party has multiplied a reasonable hourly rate by the number of hours
2 reasonably spent on litigation.” See Gay Officers Action League v. Puerto Rico, 247 F.3d
3 288, 293 (1st Cir. 2001) (citing Hensley, 461 U.S. at 433). The First Circuit has adopted the
4 “lodestar approach,” in which “the trial judge must determine ‘the number of hours
5 reasonably expended on the litigation multiplied by a reasonable hourly rate.’” Id. (citing
6 Hensley, 461 U.S. at 433). In the lodestar method, “the judge calculates the time counsel
7 spent on the case, subtracts duplicative, unproductive, or excessive hours, and then applies
8 prevailing rates in the community (taking into account the qualifications, experience, and
9 specialized competence of the attorneys involved).” Id. (citing Lipsett v. Blanco, 975 F.2d
10 934, 937 (1st Cir. 1992)). The logged hours are reasonably spent on litigation unless
11 “duplicative, unproductive, or excessive.” Id. In addition, after calculation of the initial
12 “amount of the award, attorney’s fees may be reduced because of (1) the overstaffing of a
13 case, (2) the excessiveness of the hours expended on the legal research or the discovery
14 proceedings, (3) the redundancy of the work exercised, or (4) the time spent on needless or
15 unessential matters.” Serrano v. Ritz-Carlton San Juan Hotel Spa & Casino, 808 F. Supp.
16 2d 393, 398 (D.P.R. 2011) (quoting Ramos v. Davis & Geck, Inc., 968 F. Supp. 765, 775
17 (D.P.R. 1997)) (internal quotation marks omitted)).

18 As an initial matter, we find the hours billed to be reasonable and not “duplicative,
19 unproductive, or excessive.” Gay Officers Action League, 247 F.3d at 293. To enforce
20 Plaintiff’s judgment, Ms. Berkan and Ms. Méndez each spent 1.7 hours in court. (Docket
21 No. 135-1 at 42, 44.) Out of court, Ms. Berkan spent 104.9 hours, and Ms. Méndez spent
22 18.55 hours. (Id.) Plaintiff’s attorneys accurately describe their post-judgment efforts as
23 “extremely arduous,” noting the obstinacy of Caribevisión and its successors. (Docket

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1 No. 135-1 at 37.) Enforcing Plaintiff's judgment required her attorneys to spend a great
 2 deal of effort untangling a complicated set of factual and legal questions. Their task was
 3 made more difficult by the lack of cooperation by Defendants. We have reviewed the log
 4 of hours spent on this case and find it reasonable, given these challenges.

5 Next, we evaluate Plaintiff's request that her attorneys be reimbursed at the following
 6 hourly rates: for Ms. Berkan, \$380 for in-court time and \$365 for out-of-court time; for
 7 Mary Jo Méndez ("Ms. Méndez"), \$260 for in-court and \$230 for out-of-court time.
 8 (Docket No. 135-1 at 42, 44.) Again, we note that Defendants have failed to oppose any of
 9 these figures. For the following reasons, we deem these hourly rates reasonable.

10 Ms. Berkan has been practicing law since graduating from Harvard Law School in
 11 1974. She has litigated many significant civil rights and employment cases in Puerto Rico's
 12 federal and commonwealth courts. She also maintains an active practice in academic and
 13 continuing legal education circles.² In the last fifteen years, Ms. Berkan has litigated a
 14 number of large cases, many of which have been widely cited.³ See, e.g., Ramirez-Llueveras
 15 v. Pagan-Cruz, Civ. No. 08-1486, 862 F.Supp.2d 82 (D.P.R. 2012) (resulting ultimately in
 16 large jury verdict for plaintiff in police misconduct case); Gay Officers Action League, 247
 17 F.3d 288; Camilo-Robles v. Zapata, 175 F.3d 41 (1st Cir. 1999); Arce v. Martinez, 146
 18 D.P.R. 215 (1998). Given Ms. Berkan's expertise, and her success in this case, we find it
 19 reasonable to compensate Ms. Berkan at the requested rate.⁴ See System Management, Inc.
 20 v. Loiselle, 154 F.Supp.2d 195, 204 (D. Mass. 2001) ("[T]he most critical factor in

² Ms. Berkan has filed an affidavit that sets out in greater detail her professional experience and qualifications. (Docket No. 135-1 at 23-42.)

³ See Ciudadana v. Gracia-Morales, 359 F.Supp.2d 38, 45 (D.P.R. 2005) (describing Ms. Berkan's "well-known practice in civil rights litigation at the Puerto Rico district court and First Circuit levels.") (collecting cases).

⁴ In her affidavit, (Docket No. 135-1 at 40), Ms. Berkan notes that she was compensated earlier this year at an hourly rate of \$365 for work she performed in a Commonwealth court case in 2009. Lanza v. Euro RSCG Puerto Rico, K PE 2006-4303.

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1 determining the reasonableness of a fee award is the degree of success obtained.”) (quoting
2 Farrar v. Hobby, 506 U.S. 103, 114 (1992)) (internal quotations and citations omitted).
3 Moreover, this rate is also reasonable in light of the prevailing market rates for attorneys
4 whose qualifications and experience are comparable to or lesser than Ms. Berkan’s. See,
5 e.g., Figueroa-Ramos v. DWB Holding, No. 09-1277, slip. op. at 3 (D.P.R. Apr. 6, 2011)
6 (awarding \$275 per hour to Mr. Lorenzo Palomares-Starbuck, an attorney with significantly
7 less experience than Ms. Berkan).

8 Plaintiff requests that Ms. Méndez be compensated at an hourly rate of \$260 for in-
9 court work and \$230 for out-of-court work. (Docket No. 135-1 at 44.) Ms. Méndez has
10 worked with Ms. Berkan since shortly after graduating from law school in 1993.
11 Ms. Méndez has served as co-counsel with Ms. Berkan in approximately ten jury trials, as
12 well as hundreds of labor and employment cases that have settled before trial. She also
13 maintains an active pro-bono practice.⁵ In her affidavit, (Docket No. 135-1 at 42-43),
14 Ms. Berkan has provided evidence of the prevailing rates within Puerto Rico paid to lawyers
15 with comparable or lesser experience than Ms. Méndez. See, e.g., Zayas v. Puerto Rico,
16 451 F.Supp.2d 310, 316 (D.P.R. 2006) (awarding \$200 hourly fee to attorney with thirteen
17 years of experience); Ciudadana v. Gracia-Morales, 359 F.Supp.2d 38, 45 (D.P.R. 2005)
18 (awarding \$270 hourly rate to attorney with nineteen years of experience). In light of
19 Ms. Méndez’s experience and the success obtained in this case, we deem Plaintiff’s request
20 reasonable as to Ms. Méndez as well. See System Management, Inc., 154 F.Supp.2d at 204.

21 Finally, we note that Plaintiff has provided “descriptions and/or receipts for various
22 individual expenditures incurred.” Pan Am. Grain Mfg. Co. v. P.R. Ports Auth., 193 F.R.D.

⁵ Ms. Berkan’s affidavit provides a more detailed summary of Ms. Méndez’s qualifications and experience. (Docket No. 135-1 at 42-43.)

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1 26, 37 (D.P.R. 2000). Plaintiff has submitted a detailed invoice of expenses that includes
2 copies of many receipts. (Docket No. 135-1.) We have reviewed this invoice and find its
3 costs reasonable and well-documented. Plaintiff's costs of \$5,017.84 are, therefore,
4 approved.

5 For the foregoing reasons, Plaintiff's motion submitting post-judgment attorneys'
6 fees and costs is hereby **GRANTED**. (Docket No. 135.) In addition to the previous
7 judgments, Defendants are jointly and severally liable to Plaintiff in the amount of
8 \$48,660.84.

9 **IT IS SO ORDERED.**

10 San Juan, Puerto Rico, this 22nd day of May, 2013.

11 s/José Antonio Fusté
12 JOSE ANTONIO FUSTE
13 United States District Judge